

STATEMENT OF SCOPE

Department of Commerce

Rule No. : Chapters Comm 7 and 9

Relating to Explosive Materials and Fireworks

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1. Description of the objective of the rule.

The objective of the rule is to update the department's administrative rules relating to explosive materials and the manufacture of fireworks. This code update may result in one or more rule packages to be presented for public hearings, and may include minor changes to other department rules relating to explosive materials and the manufacture of fireworks.

2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.

Chapter Comm 7 covers the manufacture, storage and use of explosive materials, including the regulation of blasting resultants. The current rules of chapter Comm 7 are based on federal regulations issued by the Bureau of Alcohol, Tobacco and Firearms, a national standard published by the National Fire Protection Association (NFPA), and safety publications from the Institute of Makers of Explosives. Chapter Comm 9 covers the manufacture of fireworks. The current rules of chapter Comm 9 are based on a national standard published by the NFPA.

These two chapters contain a mix of fire prevention related provisions and non-fire prevention related provisions, and these chapters have not been updated for several years. This code project will evaluate updating the non-fire prevention related provisions, along with the removal of the fire prevention related provisions from these chapters and the insertion of those provisions into the department's fire prevention chapter, Comm 14. Chapter Comm 14 adopts the Uniform Fire Code published by the NFPA, which includes fire prevention related provisions for explosive materials and fireworks. This alternative will eliminate duplicative printing of NFPA provisions in chapters Comm 7 and 9. Chapter Comm 14 is currently being reviewed and updated under a previously published scope statement.

The alternative of not updating these chapters will result in administrative rules that are not consistent with currently recognized national standards and practices related to fire prevention.

3. Statutory authority for the rule.

- A. Explosive Materials – Section 101.15 (2) (e), Stats.
- B. Manufacture of Fireworks – Section 167.10 (6m), Stats.
- C. Fire Prevention – Section 101.14 (1) (a), Stats.

4. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule.

The department estimates that it will take approximately 400 hours to develop this rule. This time includes reviewing the current codes and related national standards, then drafting the rule and processing the rule through public hearings, legislative review and adoption. The department will assign existing staff to perform the review and develop the rule changes. There are no other resources necessary to develop the rule.

5. Description of all of the entities that will be affected by the rule.

The rule will affect any entity that is involved with the manufacture, storage, handling or use of explosive materials and fireworks.

6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

An Internet-based search of the *Code of Federal Regulations* (CFR) found the following existing federal regulations relating to the activities to be regulated by the rule.

Title 27 CFR Part 555 – Commerce in Explosives, Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. This part contains extensive procedural and substantive requirements relative to: (1) The interstate or foreign commerce in explosive materials; (2) The licensing of manufacturers and importers of, and dealers in, explosive materials; (3) The issuance of permits; (4) The conduct of business by licensees and operations by permittees; (5) The storage of explosive materials; (6) The records and reports required of licensees and permittees; (7) Relief from disabilities under this part; (8) Exemptions, unlawful acts, penalties, seizures, and forfeitures; and (9) The marking of plastic explosives. These regulations relating to the storage of explosive materials, such as separation distances and magazine construction, are the same as in chapter Comm 7. These regulations cover fireworks to the extent that display and special fireworks are classified as explosive materials.

Title 30 CFR Part 57 – Safety and Health Standards – Underground Metal and Nonmetal Mines, Department of Labor. This part contains regulations relating to the storage, site transportation, use, extraneous electricity and equipment/tools for explosive materials at underground mines.

Title 30 CFR Part 56 – Safety and Health Standards – Surface Metal and Nonmetal Mines, Department of Labor. This part contains regulations relating to the storage, site transportation, use, extraneous electricity and equipment/tools for explosive materials at surface mines.

An Internet-based search of the 2004 and 2005 issues of the *Federal Register* found the following regulations relating to the activities to be regulated by the rule.

Federal Register, May 27, 2005. The Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives published a final rule to require licensed importers to identify by marking all explosive materials they import for sale or distribution.

Federal Register, December 20, 2004. The Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives published a notice containing the 2004 List of Explosive Materials.

Federal Register, March 31, 2004. The Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives published a notice containing the 2003 List of Explosive Materials.

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DEPARTMENT OF COMMERCE

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DEPARTMENT OF COMMERCE

Mary P. Burke, Secretary

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